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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,940	02/22/2002	Nobuyoshi Yazawa	15311	2191
7590 11/14/2008 Scully, Scott, Murphy & Presser 400 Garden City Plaza Garden City, NY 11530				
EXAMINER CZEKAJ, DAVID J				
ART UNIT 2621		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/081,940

**Applicant(s)**

YAZAWA ET AL.

**Examiner**

DAVID CZEKAJ

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-20 and 22-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 and 22-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- \_\_\_\_\_ Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/20/08 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 18-20 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (5776049) in view of Chikama (5520222) in further view of Akui et al. (5577991), (hereinafter referred to as "Akui").

Regarding claim 18, Takahashi discloses an apparatus that relates to a stereo endoscope (Takahashi: column 1, lines 9-11). This apparatus comprises "an optical system including at least one optical lens for obtaining an optical image of a subject"

(Takahashi: figure 2a, wherein the optical system is the objective optical system), "an optical system support member" (Takahashi: figure 2A, wherein the optical system support member is the optical system driving means), "an imaging element for capturing an optical image" (Takahashi: figure 2A, wherein the imaging element is the CCD which captures the image of the subject), "an imaging element support member" (Takahashi: figure 2A, wherein the support member is the CCD driving means), and "a tubular member comprising a first and second end, defining an innerspace extending between the first and second end, the optical system being hermetically joined to the first end the imaging element being joined to the second end" (Takahashi: figure 10a, wherein the tubular member is shown). Takahashi further discloses "relative movements of the optical system and the imaging support member in a direction along an optical axis of the optical system and in a direction perpendicular to the optical axis of the optical system" (Takahashi: figure 2A, wherein the movements are indicated by the left, right, up, and down arrows) and "the at least one optical lens and imaging element are arranged to oppose each other at opposite ends of the tubular member in an airtight structure" (Takahashi: figures 2A and 9-10). However, this apparatus lacks the bellows portion and adjustment mechanism as claimed. Chikama teaches that prior art endoscope systems limit the diameter of the fiber bundles and has dead space (Chikama: column 1, lines 45-55). To help alleviate this problem, Chikama discloses an apparatus comprising "a bellows portion between the first and second ends of the tube adapted for movement, the bellows portion expanding and contracting for distance adjustment and deforming for position adjustment" (Chikama: figures 11-14; column 8,

lines 15-35; column 9, lines 5-11), and "an adjustment mechanism for adjusting relative positions of the support members in three dimensions, the dimensions being in a direction orthogonal to the optical axis, along the optical axis and a tilt direction to the optical axis" (Chikama: column 9, lines 5-11). Akui teaches that prior art endoscope systems cause an observer to feel terrible fatigue (Akui: column 2, lines 48-54). To help alleviate this problem, Akui discloses "maintaining the state of the adjustment and an adjustment frame having the adjustment mechanism disposed through the frame, the frame connecting the optical system and the imaging support member to form a space caused by movements of the optical system and imaging support member" (Akui: column 8, lines 51-60; column 9, lines 1-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Takahashi, add the bellows and adjustment mechanisms taught by Chikama, and add the adjustment taught by Akui in order to obtain an apparatus that can provide a wide variety of different movements and help eliminate dead space.

Regarding claim 19, Takahashi discloses "an optical system fixing portion for fixing the optical system and frame member defining an inner space in which the optical system fixing portion is located, the frame member being joined to the tubular member" (Takahashi: figure 10A, wherein the optical system is fixed or joined to the tubular member).

Regarding claim 20, Takahashi discloses "an imaging element fixing portion for fixing the imaging element and frame member defining an inner space in which the fixing portion is located" (Takahashi: figures 4-5).

Regarding claims 22-23 and 25-26, Takahashi discloses "an adjusting mechanism for moving the optical system and imaging system relative to each other" (Takahashi: figures 2A, 4, 5, column 7, lines 17-29, wherein the adjusting mechanism is the driving means).

Regarding claim 24, Takahashi in view of Chikama disclose "an adjusting frame member" (Chikama: column 9, lines 5-11) such that "the optical system and imaging system move relative to each other" (Takahashi: figures 2A, 4, 5, column 7, lines 17-29).

Regarding claim 27, note the examiners rejection for claims 19 and 25.

Regarding claim 28, note the examiners rejection for claims 20 and 26.

2. Claims 29-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (5776049) in view of Chikama (5520222) in further view of Akui et al. (5577991), (hereinafter referred to as "Akui") in further view of MacKinnon et al. (6110106), (hereinafter referred to as "MacKinnon").

Regarding claims 29 and 34, note the examiners rejection for claim 18, and in addition, claims 29 and 34 differ from claim 18 in that claims 29 and 34 further require a filter unit. MacKinnon teaches that prior art imaging systems are bulky systems and have a limited dynamic range (MacKinnon: column 2, lines 8-15). To help alleviate this problem MacKinnon discloses a filter unit for selecting one of a plurality of observation states" (MacKinnon: figures 4A and 4C, wherein the filter unit is the filter 18). Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to implement the filter unit in order to more accurately adjust the amount of light within the apparatus.

Regarding claims 30-32, although not disclosed, it would have been obvious for the observation states to include normal light, enlarged, and fluorescent light (Official Notice). Doing so would have been obvious in order to be able to use the apparatus under a variety of conditions.

Regarding claim 33, MacKinnon discloses "the filter unit defines a plurality of openings, each of the openings comprising a lens" (MacKinnon: column 20, lines 26-28).

Regarding claim 35, note the examiners rejection for claim 18, and in addition, MacKinnon discloses "the filter unit defines a plurality of openings, the endoscope apparatus further comprises a filter unit moving mechanism to move the filter unit" (MacKinnon: column 20, lines 14-20, wherein the moving mechanism is the knobs).

Regarding claim 36, Akui discloses "the adjustment mechanism is located outside an airtightly sealed area formed from the tubular member, optical system, and image element support member" (Akui: figures 9-10).

Regarding claim 37, Akui discloses "the adjustment mechanism includes a plurality of screws disposed through the frame" (Akui: figures 9-10; column 8, lines 51-60).

Regarding claim 38, Akui discloses "the screws are disposed through the frame and abut against an external surface of the optical system" (Akui: figures 9-10; column 8, lines 51-60; column 9, lines 1-10).

Regarding claim 39, Akui discloses "each of the screws is adapted to rotate to move the optical system in an axial direction, orthogonal direction to an optical axis and a tilt direction" (Akui: figures 9-10; column 8, line 51 – column 9, line 24).

Regarding claim 40, note the examiners rejection for claim 38.

Regarding claim 41, note the examiners rejection for claim 39.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CZEKAJ whose telephone number is (571)272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Art Unit: 2621

/Dave Czekaj/

Examiner, Art Unit 2621